

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

MAX A. KELLEY, #2185192,  
Plaintiff,

v.

MAJOR WILLIAM BRATTON III,  
THOMAS BARNARD, and  
CONTRACT MONITOR ELDER,  
Defendants.

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CASE NO. 6:18-cv-641-JDK-JDL

**ORDER ADOPTING REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

This case was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636. On May 13, 2019, the Magistrate Judge issued a Report and Recommendation (Docket No. 15), recommending that the action be dismissed without prejudice for failure to comply with a court order and failure to prosecute. A return receipt indicating delivery to Plaintiff, who is no longer in prison, was received by the Clerk on June 24, 2019 (Docket No. 16).


This Court reviews the findings and conclusions of the Magistrate Judge *de novo* only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a *de novo* review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, Plaintiff did not file objections in the

prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and Recommendations, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. The Court therefore adopts the Report and Recommendation of the United States Magistrate Judge (Docket No. 15) as the findings of this Court.

Accordingly, it is hereby **ORDERED** that the Magistrate Judge's Report (Docket No. 15) be **ADOPTED** and that the above-styled civil action be **DISMISSED WITHOUT PREJUDICE** for failure to comply with a court order and failure to prosecute. All pending motions are **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this **12th** day of **July, 2019**.

  
JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE